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5 Attorney for Defendant  
6 CALEB MITCHELL ROGERS

7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF NEVADA

10  
11 UNITED STATES OF AMERICA, )  
12 Plaintiff, ) Case No.: 2:22-cr-00064-APG-EJY  
13 v. )  
14 ) STIPULATION TO CONTINUE  
CALEB MITCHELL ROGERS, ) MOTION DEADLINES  
15 ) (Fourth Request)  
16 Defendant. )  
17 \_\_\_\_\_)

18 IT IS HEREBY STIPULATED AND AGREED by and between Jason Frierson, United  
19 States Attorney, and Daniel J. Cowhig, Assistant United States Attorney, counsel for the  
20 UNITED STATES OF AMERICA (hereinafter “the Government”), and Richard J. Pocker,  
21 Esq. of the law firm of Boies Schiller Flexner LLP, counsel for Defendant CALEB  
22 MITCHELL ROGERS that the parties herein shall have to and including January 23, 2023, to  
23 file any and all pretrial motions and notices of defense.

24 IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that they  
25 have shall to and including February 6, 2023, to file any and all responsive pleadings.

26 IT IS FURTHER STIPULATED AND AGREED, by and between the parties, that they  
27 shall have to and including February 13, 2023, to file any and all replies in support of motions.

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1                   The Stipulation is entered into for the following reasons:

2                   1.        Counsel for Defendant ROGERS was appointed to assume his representation on  
3 September 9, 2022, following the Court's granting of the Sealed Ex Parte Motion to Withdraw  
4 filed by the Office of the Federal Public Defender for the District of Nevada.

5                   2.        Additional time is needed to review the discovery more thoroughly with  
6 Defendant ROGERS, as he is intimately and actively engaged in the preparation of his case,  
7 and to further investigate issues pertaining to the Government's physical evidence in this case.  
8 Moreover, counsel for Defendant ROGERS has been advised by Government counsel of  
9 further evidence discovered in the Government's investigation, some of which will alter the  
10 evidentiary landscape of the case.

11                  3.        Defendant ROGERS is incarcerated pending trial and does not object to the  
12 continuance.

13                  4.        The parties are in agreement as to the need for a continuance of the deadline for  
14 filing motions, and related dates.

15                  5.        Counsel for Defendant ROGERS served as lead trial counsel for the  
16 Respondents in the case of China Yida Holding Company v. Pope Investments, LLC, Case  
17 Number A-16-746732-P, in the Eighth Judicial District Court in and for Clark County, Nevada.  
18 The bench trial in that matter was conducted between September 26 and October 10, 2022,  
19 consuming the attention and time of defense counsel during that time frame. Present defense  
20 counsel was also engaged in another bench trial, in the matter of Rimini Street, Inc. v. Oracle  
21 International Corporation, Case Number 2:14-cv-01699-MMD-DJA, pending before the  
22 Honorable Miranda M. Du in the United States District Court for the District of Nevada. The  
23 Oracle trial began on November 29<sup>th</sup> and extended through December 15, 2022. Present  
24 defense counsel's participation in the aforementioned trials constitute another factor  
25 necessitating the extension requested by this Stipulation.

26                  6.        The additional time requested herein is not sought for purposes of delay, but  
27 merely to allow recently appointed defense counsel sufficient time within which to be able to  
28 effectively and completely investigate the discovery materials provided and to research and

1 compose any necessary pretrial motions. The extensions requested will not have any impact on  
2 the scheduled April 24, 2023 trial.

3       7.     Additionally, denial of this request for continuance could result in a miscarriage  
4 of justice. The additional time requested by this Stipulation is excludable in computing the  
5 time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18,  
6 United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United  
7 States Code, Section 3161(h)(7)(B)(i), (iv).

This is the fourth stipulation to continue the deadlines for the filing of motions.

9 DATED this 30<sup>th</sup> day of December, 2022.

10 | BOIES SCHILLER FLEXNER LLP

JASON FRIERSON

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By: /s/ Richard J. Pocker  
RICHARD J. POCKER, ESQ.  
Counsel for Caleb Mitchell Rogers

By: /s/ Daniel J. Cowhig  
DANIEL J. COWHIG  
Assistant United States Attorney

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

## **FINDINGS OF FACT**

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Counsel for Defendant ROGERS was appointed to assume his representation on September 9, 2022, following the Court's granting of the Sealed Ex Parte Motion to Withdraw filed by the Office of the Federal Public Defender for the District of Nevada.

2. Additional time is needed to review the discovery more thoroughly with Defendant ROGERS, as he is intimately and actively engaged in the preparation of his case, and to further investigate issues pertaining to the Government's physical evidence in this case. Counsel for Defendant ROGERS has also been advised that additional critical evidence will be provided by the Government this week.

3. Defendant ROGERS is incarcerated pending trial and does not object to the continuance.

4. The parties are in agreement as to the need for a continuance.

5. Present defense counsel served as lead trial counsel for the Respondents in the case of China Yida Holding Company v. Pope Investments, LLC, Case Number A-16-746732-

1 P, in the Eighth Judicial District Court in and for Clark County, Nevada. The bench trial in that  
 2 matter was conducted between September 26 and October 10, 2022, consuming the attention  
 3 and time of defense counsel during that time frame. Present defense counsel was engaged in  
 4 another bench trial, in the matter of Rimini Street, Inc. v. Oracle International Corporation,  
 5 Case Number 2:14-cv-01699-MMD-DJA, pending before the Honorable Miranda M. Du in the  
 6 United States District Court for the District of Nevada. The Oracle trial began on November  
 7 29<sup>th</sup> and extended through December 15, 2022. Counsel for Defendant ROGERS' participation  
 8 in the aforementioned trials constitute another factor necessitating the extension requested by  
 9 this Stipulation.

10       6.       The additional time requested herein is not sought for purposes of delay, but  
 11 merely to allow recently appointed defense counsel sufficient time within which to be able to  
 12 effectively and completely investigate the discovery materials provided and to research and  
 13 compose any necessary motions. The requested extensions will not have any impact on the  
 14 scheduled April 24, 2023 trial date.

15       7.       Additionally, denial of this request for continuance could result in a miscarriage  
 16 of justice. The additional time requested by this Stipulation is excludable in computing the  
 17 time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18,  
 18 United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United  
 19 States Code, Section 3161(h)(7)(B)(i), (iv).

20                   **CONCLUSIONS OF LAW**

21       The ends of justice served by granting said continuance outweigh the best interest of the  
 22 public and the defendant in a speedy trial, since the failure to grant said continuance would be  
 23 likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the  
 24 opportunity within which to be able to effectively and thoroughly prepare motions, taking into  
 25 account the exercise of due diligence.

26       The continuance sought herein is excludable under the Speedy Trial Act, Title 18,  
 27 United States Code, Section § 3161(h)(7)(A), when considering the factors under Title 18,  
 28 United States Code, § 3161(h)(7)(B)(i), (iv).

## ORDER

IT IS THEREFORE ORDERED that the parties herein shall have to and including January 23, 2023, to file any and all pretrial motions and notice of defense.

IT IS FURTHER ORDERED that the parties shall have to and including February 6, 2023, to file any responses.

IT IS FURTHER ORDERED that the parties shall have to and including February 13, 2023, to file any and all replies.

IT IS FURTHER ORDERED that the currently scheduled calendar call set for April 18, 2023 shall remain in effect, and the trial shall remain scheduled for April 24, 2023 at 9:00 a.m. in Courtroom 6C.

IT IS FURTHER ORDERED that trial briefs, proposed voir dire questions, proposed jury instructions, and a list of the Government's prospective witnesses must be electronically submitted to the Court by the 18<sup>th</sup> day of April, 2023.

DATED January 3, 2023



UNITED STATES DISTRICT JUDGE